

From: DJMaytag
To: Microsoft ATR
Date: 1/25/02 2:02pm
Subject: Microsoft Settlement

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I am part of a worldwide network that is working on getting the BeOS or equivalent back into the market place, but there is no hope of success if the following issues aren't addressed: examples: open Office file formats, Win32 APIs, make dual-boot options mandatory, etc...

I am not a very eloquent speaker/writer so I am going to include some links to another who is. I can say with certain confidence, that any remedy that leaves out the OEM bootloader license will have zero effect on any competition being able to someday enter the marketplace to compete against Microsoft.

Here are some excerpts from some articles written by Scot Hacker from byte.com:

Regarding the state of the Microsoft monopoly:

"But the reality is that Be's failure has made a point to the world, to wit: "Don't bother trying to create a better commercial desktop OS - it doesn't matter how hard you try, how many engineers you throw at the problem, how much money you spend, or how many years you put into it. Microsoft owns that space and, worse, the public is totally complicit with that fact. People will not stop using Windows. It is a losing battle."

It is unlikely now that anyone will ever again attempt what Be, Amiga, and IBM attempted. And that's the saddest thing of all - the insidious ways in which the monopoly has wormed itself into the fabric of our economy and culture. The message that "resistance is futile" has been hammered home. The only OS projects that stand a chance are open source, because they don't play by the rules of the economy."

Regarding the part of the monopoly the DOJ has seemingly completely missed, the Microsoft bootloader:

"In the 1998-1999 timeframe, ready to prime the pump with its desktop offering, Be offered BeOS for free to any major computer manufacturer willing to preinstall BeOS on machines alongside Windows. Although few in the Be community ever knew about the discussions, Gassée says that Be was engaged in enthusiastic discussions with Dell, Compaq, Micron, and Hitachi. Taken together, preinstallation arrangements with vendors of this magnitude could have had a major impact on the future of Be and BeOS. But of the four, only Hitachi actually shipped a machine with BeOS pre-installed. The rest apparently backed off after a closer reading of the fine print in their Microsoft Windows License agreements. Hitachi did ship a line of machines (the Flora Prius) with BeOS preinstalled, but made changes to the bootloader - rendering BeOS invisible to the consumer - before shipping. Apparently, Hitachi received a little visit from Microsoft just before shipping the Flora

Prius, and were reminded of the terms of the license."

"So here we are in 2001, and guess what? It's still not possible to purchase a dual-boot Win/Linux machine. Doesn't that seem kind of odd? With all of the hype Linux has gotten, and with the technical simplicity of shipping dual-boot machines, not a single PC OEM is shipping such a beast. The technology marketplace is glutted with options. Vendors use even the smallest opportunities to trumpet their differentiating factors. Linux is free. And yet there are no commercially available dual-boot machines on the market. Not one. The silence of the marketplace speaks volumes. There is no other way to explain this phenomenon other than as a repercussion of the confidential Windows License under which every hardware vendor must do business."

From an article entitled "The De Facto Hardware Monopoly" <http://www.byte.com/documents/s=97/byt19990727s0011/index.htm>

"While the Department of Justice trial focuses on issues such as browser integration, the real point of the trial is often lost in all the hubbub: The hardware industry is, by necessity or by choice, beholden to Microsoft. It's one thing to see an "Intel Inside" sticker on a new machine, but when I see hardware labeled "Designed for Windows 98" or "Windows 98-compatible", a shiver of frustration runs up my spine. Since when should hardware care what operating system it's working with?"

From <http://lists.elistx.com/archives/interesting-people/200108/msg00238.html>

>From: "Brian David Hungerford" <bhungerf@umich.edu>
>To: "David Farber \ (by way of Bernard A. Galler\)" <dave@farber.net>
>
>The boot license doesn't actually say that you can't install a second OS.
>
>What is says is:
>
>1. You can't deliver a preinstalled machine in which Microsoft's code
>bootstraps someone else's OS. It is technical possible to do this with
>NT/2000/XP/etc., because the NT bootloader is specifically designed to
>respect the preexistence of another OS and incorporate that into the boot
>sequence; any MCSE knows this. It's how NT systems allow you to preserve
>your previous boot option when you upgrade from DOS, OS/2, or Windows 9x/ME.
>However ...
>
>2. OEM's must use Microsoft's preinstallation tools to deploy the OS on the
>machine. Since those tools (usually) start by blasting away the contents of
>the disk and laying down Windows in a fresh partition, any preexisting OS
>would be destroyed in the process.
>
>Hence the trap: deploy the other OS first, and the OEM tools wipe it away;

>deploy it after Windows, and you've used Microsoft's boot code to launch a
>different OS.

>

>It is trivially easy for end users and VAR's to set up dual-boot systems.

>But - as the article points out - this would require some interest on the
>part of customers for post-purchase installation, and there is none.

<http://www.theregister.co.uk/content/archive/21410.html>

Between 1997, when the DoJ began taking the browser issue seriously, and when the final arguments were made late in 1999, Be was the only competitor whose business solely depended on providing competition to Microsoft on the consumer desktop. It's strange then that it should ignore such compelling evidence of anti-competitive behaviour.

But the Antitrust staff aren't the only people who are reluctant to grasp the nettle. There's a widespread view in the Linux community that offering head-on competition to Windows on the desktop isn't how Linux will eventually win. The argument has some sound reasoning - it points to historical changes in the economics of the infrastructure, of the sort which saw midrange system replaced client/server PCs - but ducks the difficult question. If you are going to offer consumers an alternative to Windows, you're going to need distribution, and overwhelmingly the least troublesome and most convenient distribution point is a preloaded, pre-configured installation. That means access to the PC's boot sequence.

At the LinuxWorldExpo panel discussion Jeremy Allison made few people comfortable with his point that unless you break the client monopoly, "your alternative infrastructure is irrelevant,"

Very few OEMs can afford not to offer Windows, and while their freedom to offer alternatives is dictated to by the Beast, the alternatives will languish.

<http://www.theregister.co.uk/content/4/22670.html>

One possible concession by Microsoft in the proposed AntiTrust settlement has come too late to save the company which pressed hardest for its inclusion:
Be, Inc.

Section C/4 of the remedy states that Microsoft may not forbid OEMs "offering users the option of launching other Operating Systems from the Basic Input/Output System or a non-Microsoft boot-loader or similar program that launches prior to the start of the Windows Operating System Product".

OEM agreements preventing PC manufacturers from advertising the fact that an alternative was in fact, right in front of the user, pre-installed.

In the case of Hitachi, the most significant OEM to offer BeOS preinstalled, the user had to manually install a boot manager to activate the BeOS partition, a process which involved creating their own floppy boot disk. The package could not include a boot floppy, and the Windows desktop had no icons enabling the automation of the process, or even giving any indication that an alternative existed on the PC.

I can't grab everything from this article, but it's a good read:

<http://www.netaction.org/msoft/world/>

I found this document via <http://www.nyx.net/~lmulcahy/microsoft-bad-faith.html>

There a whole host of articles out there explainin why the DOJ missed the boat and why Microsoft is going to get away scot free from this mess if some sever changes don't take place. I can't even begin to explain how bad this is going to be for the US and world economy if Microsoft isn't stopped.

Thank you for yout time,
Mitch Anderson

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Three things you need to remember about me:

1. Alright, alright... I'm a DJ,
2. I changed my mind, OK? (see <http://www.djmaytag.com/name/>),
3. In any case, I'm STILL not a washer and dryer repairman, either.

<http://www.djmaytag.com/> <- Home page

<http://www.djmaytag.com/303/> <- The TB-303 re-release page

Fortune cookie:

Dentist, n.:

A Prestidigitator who, putting metal in one's mouth, pulls coins out of one's pockets.

-- Ambrose Bierce, "The Devil's Dictionary"